STAFFING

- **1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) procedures regarding staffing and recruitment.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES: This handbook contains mandatory VA procedures on staffing. This revision streamlines the referral process by allowing all candidates to be referred on the same certificate regardless of whether they are in the competitive or excepted service, are internal or external candidates, or are eligible for promotion, reassignment, change to lower grade, etc. Separate referral certificates are now only required for each advertised grade. The pages in this issuance replace the corresponding page numbers in VA Handbook 5005. Revised text is contained in [brackets]. This change will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the Office of Human Resources Management (OHRM) Web site.
- **3. RESPONSIBLE OFFICE:** The Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.
- **4. RELATED DIRECTIVE:** VA Directive 5005, Staffing.

5. RESCISSIONS: None.

CERTIFIED BY: BY DIRECTION OF THE SECRETARY

OF VETERANS AFFAIRS:

/s/Stephen W. Warren Acting Assistant Secretary for for Information and Technology

/s/Rafael A. Torres Acting Assistant Secretary for Human Resources and Administration

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- i. **Qualified Applicants.** Individuals who meet the minimum qualification (including properly determined selective factors, if applicable), time-in-grade and time-after-competitive-appointment requirements, as well as any applicable statutory provisions.
- j. **Best Qualified Candidates.** Those candidates competing under merit promotion procedures whose relative rankings indicate that they will perform the job to be filled with substantially equal success.

2. GENERAL REQUIREMENTS

NOTE: Actions defined below may or may not require competition. Such requirements are outlined in chapter 3.

- a. **Demotion.** An employee must be given the required legal and regulatory notices before a demotion action is taken, except where the employee: (1) signed an agreement to return to a lower grade as a condition for a temporary promotion; or, (2) voluntarily makes a written request for change to lower grade. Demotions to positions with higher known promotion potential than the known potential of the current position held must be made competitively under the regulations in 5 CFR, part 335 and the policies and procedures contained in chapter 3 of this part.
- b. **Reassignment.** Reassignments will be made in accordance with the policy contained in this handbook. Reassignments to positions with known promotion potential higher than the potential of the current position held must be made competitively under the regulations in 5 CFR, part 335 and the policies and procedures contained in chapter 3 of this part.
- c. **Promotion.** Promotions and other personnel actions which are processed under competitive promotion procedures must be made under the policies in 5 CFR, part 335 and the policies and procedures contained in chapter 3 of this part.
- d. **Position Change (General).** [] When reassignment or demotion candidates are required to be rated and ranked under competitive promotion procedures along with candidates for promotion, the best qualified group will consist of the top ranked candidates.
- e. **Probationary or Trial Period (Appointment).** Employees who change positions before they complete a probationary or trial period must complete the remainder of the probationary or trial period in the new position. No new probationary or trial period is required if one is completed before the position change.
- f. **Probationary Period (Supervisors and Managers).** The regulations in 5 CFR, part 315 subpart I and paragraph 13 of chapter 3 this part are applicable. See Appendix III-A.

CHAPTER 3. PROMOTION (TITLE 5)

- **1. SCOPE.** Contains categories of employees to be considered for promotion[].
- a. **All VA Employees.** The following categories of VA employees within the area of consideration must be given consideration for promotion as though they were present for duty.
 - (1) Employees on Intergovernmental Personnel Act agreements;
 - (2) Employees on leave;
 - (3) Employees attending training courses;
 - (4) Employees on detail, either internally or to other Federal agencies;
 - (5) Employees serving in public international organizations, either through a transfer or detail;
 - (6) Employees separated for military service with restoration rights; [and]
 - (7) Employees absent because of compensable injury (see 5 CFR, part 353, subpart C)[.]
- b. Concurrent Consideration of Certain Excepted Service Employees Under Competitive Merit Promotion Procedures. Generally, employees serving under excepted appointments (except Veterans [Recruitment] Appointments) are precluded from competing under competitive promotion procedures with competitive service employees. However, certain excepted service employees, e.g., title 38 and hybrid title 38 employees covered by VA/OPM Interchange Agreements (see appendix III-C), or, [persons with intellectual disabilities, severe physical disabilities, and psychiatric disabilities] appointed under Schedule A shall be included within the minimum area of consideration. Therefore, the same rating and ranking criteria will be used in evaluating employees in these groups and each group will be referred for promotion []. Such an approach may significantly improve upward progression opportunities for [persons with intellectual disabilities, severe physical disabilities, and psychiatric disabilities]. See Appendix III-C.
- c. **Veterans Employment Opportunities Act (VEOA).** When facilities are accepting applications from outside VA, individuals who are eligible for consideration under the VEOA may apply. (See part II, chapter 2, section B, paragraph 2c of this handbook.)

nature about any candidate which may be gained during the deliberation process and may be disciplined if they do so.

11. REFERRAL AND SELECTION

a. **Referral of Internal Candidates. Requirement -** The best qualified group referred to the selecting official for promotion or promotion potential consideration will consist [] of [] promotion candidates as well as reassignment and/or demotion candidates who are competing for a position with higher potential[. In keeping with the goal of selecting from best qualified candidates, a group of best qualified candidates for selection consideration does not have to be limited to promotion candidates (see paragraph 11b below). Identification of best qualified candidates may be made through assessment questionnaires, determinations of selecting officials, or other assessment methods, so long as the method to be used and the resulting best qualified group is determined prior to selection and is documented in the recruitment record.]

b. Referral of External Non-VA Candidates

(1) **Requirement** - If transfer, reinstatement, and VEOA eligibles are being considered for a higher-graded position than previously held, they must be evaluated and ranked along with competing VA employees to determine the cut-point. Once that has been established, all best qualified candidates will be referred []. VEOA eligibles will be identified on the [] certificate by [annotating VEOA] after their names. In such cases, an inadequate number of best qualified VA promotion candidates is justification for extending the area of promotion consideration to other VA employees.

NOTE: Normally, the selection official determines if there is an adequate number of best qualified VA promotion candidates. An extension of the area of promotion consideration resulting in additional VA candidates for promotion under these circumstances may cause the cut-point to change and necessitate a redetermination of best qualified candidates for each recruitment source.

- (2) If the competitive service position provides promotion or placement in a position with higher promotion potential, qualified excepted service employees covered by the interchange agreements will be rated and ranked, when a panel is required, to determine which applicants are best qualified for referral. When there are fewer than 10 applicants, no panel is required. However, screening to determine the best qualified applicants must take place before a selection is made. [] Excepted service and competitive service employees [may] be referred on [the same certificate.] (See part III, chapter 3.)
- (3) **Requirement** When a position is announced at multiple grade levels, a best qualified group for each grade level, if available, will be referred for consideration on separate certificates.

[c. Referral Criteria

(1)] **Guidance** - A best qualified group consists of[:] candidates who are competing for promotion and/or for a position with higher promotion potential [(these individuals must be rated an ranked to be placed in the best qualified group);] VA employees who are candidates for reassignment [or] demotion to a position with no higher potential [or who have previously held the full performance level of the position[; t]ransfer applicants from other agencies[;] and reinstatement eligibles for positions equal in grade to their current or former nontemporary, competitive service positions[.]

- [(2)] **Guidance** The number of [] candidates to be referred will vary depending on the cut-point (see Appendix III-G, paragraph 7c), the number of candidates being considered and other circumstances which prevail. [T]he selecting official should receive an adequate number of [] candidates, if available, for consideration. Although rating and ranking is permitted when there are 10 or fewer qualified promotion candidates, referral of all candidates for consideration without rating and ranking is permissible (see Appendix III-G, par 7b(1). Before making a selection, however, the best qualified candidates must be identified. Best qualified candidates may be referred by [] 1-2-3 rank order or in alphabetical order.
- [(3)] **Guidance** When the point credit difference between candidates is so small that a bona fide difference in predicted capability is not apparent, it may be desirable to obtain additional information from such candidates to determine whether there are, in fact, meaningful distinctions among them. The selecting official should not, however, be burdened with so many candidates that considering all candidates unduly delays the selection process; and an administrative limit may be necessary. Generally, 10 promotion candidates are considered sufficient.
- [(4)] **Ties. Guidance** All candidates with tied scores at the cut-point may be referred, if the plan so provides. If ties in total scores of candidates will result in a referral of more [] candidates than the selecting official can reasonably consider and additional information cannot be collected or results in no meaningful distinction, provisions may be made to break the ties to arrive at an appropriate number of referrals (see Appendix III-I).

[d]. **Selection**

- (1) **Requirement** The responsibility for selection must be vested in one official. Promotion panels will not make final selections or recommendations.
- (2) **Requirement** A selecting official has the right, which will not be negotiated, to select or non-select candidates from a properly constructed [] certificate. This includes the right to non-select all of the candidates and return the [] certificate unused. Additionally, when a [] certificate is issued to provide consideration for more than one vacancy and the selecting official selects for one vacancy, this action does not carry with it an obligation to select others from the [] certificate for the remaining vacancies or preclude the consideration and selection of an applicant from any other appropriate recruitment source.
- (3) **Requirement** Once a final, properly constructed [] certificate resulting from the original announcement has been issued, another merit [staffing] certificate for the same vacancy will not be issued for 6 months. Selection must be made from the properly constructed [] certificate resulting from the original announcement if the position is filled by competitive promotion during that 6-month period. **Guidance** The cancellation of an announcement and the resulting certificate after a best qualified group has been determined, for the purpose of improving or injuring the chances of any person, is in direct conflict with law. (See VA Directive 5005.) Such actions intended to alter the best qualified group because a particular employee is not included in it (such as providing time to meet basic qualification requirements, to meet other legal and regulatory requirements, to change supervisory appraisals to increase or decrease any employee's chances, etc.) are inconsistent with merit principles and law. The preceding requirement does not preclude the following actions:

- (a) Adding high quality candidates if available from the rating and ranking process to replace best qualified candidates who decline consideration after the original [] certificate has been issued; or
- (b) The addition of high quality candidates who rank above the cut-point located as a result of an extension of the area of [] consideration when an interim referral was made using a smaller area of [] consideration.
- (4) **Guidance** Selecting officials should act promptly when considering candidates referred on a [] certificate. It is not only in the interest of good management, but also of major concern to employees, that decisions concerning promotion opportunities be made expeditiously. Excessive delay often causes undue frustration on the part of candidates which may result in an erosion of trust and confidence. For these reasons, when there is excessive delay, it is entirely proper to require written justification from a selecting official to the HRM office. While some circumstances may require more time than usual, selecting officials normally should be able to make a decision within 5 workdays after receipt of a [] certificate consisting of best qualified local candidates and within 10 workdays after receipt of a [] certificate with best qualified candidates from an extended area of [] consideration.
- (5) A placement follow-up will be used to evaluate the employee's progress and adjustment following placement in a position.

12. CAREER PROMOTIONS

- a. **General.** A career promotion is one without current competition when:
- (1) An employee was appointed, or selected through the use of competitive promotion procedures, for an assignment intended to prepare the person for the position being filled (career ladder); or
- (2) The employee's position is reclassified to a higher grade because of accretion of additional duties and responsibilities.
- b. **Requirement** All promotion plans must provide for career promotions, including career-ladder promotions in movements between VA facilities.

c. Career-Ladder Promotions

- (1) **Requirement** Career ladder promotions without current competition may be made only when the intent was a matter of record prior to the initial selection and all potential applicants were so informed. Career ladders must be documented and be available to employees. Career-ladder positions are those with known promotion potential; therefore, an announcement under competitive promotion procedures must inform possible applicants of the potential available to the selectee.
- (2) **Guidance** Career-ladders may consist of potential to the next higher grade or through several intermediate grades to a target several grades higher than the initial grade level. **Requirement** Selection for the initial position provides only the opportunity for subsequent career-ladder promotion. Promotion to

- (f) A notation of whether the candidate is in the best qualified group; and,
- (g) The signatures of any HRM staff member involved with determining best qualified or basic qualifications and those of promotion panel members (if applicable);
- (10) The completed [] certificate showing the names certified for promotion, the decision, the selecting official's signature and date;
 - (11) A copy of the notices to applicants concerning the outcome of the action; and
 - (12) An explanation of any circumstances peculiar to the action which is needed for clarification.

19. SELECTION PROCEDURE DOCUMENTATION

- a. **Requirements** The following requirements are prescribed by the Uniform Guidelines on Employee Selection Procedures for documentation of a selection procedure supported by content validity. Good documentation provides a basis of support for the procedure should its validity be challenged. Lack of documentation increases the possibility of a finding of adverse impact and, therefore, discrimination, or may preclude establishing adequate job relatedness.
- (1) **Identifying Information.** The names, titles and other identifying information of all personnel involved in developing the selection procedure;
- (2) **Dates of Events.** Documents concerning each step of the selection procedure development, from the job analysis through the crediting plan, forms developed, supplemental experience statements etc., must contain the date;
- (3) **Job Analysis Information.** All notes and decisions related to the job analysis and subject matter expert panel decisions (including the list of tasks; the relationships of the KSAOs to the tasks; the determination of the important KSAOs; the quality level statements related to each KSAO or rating factor; supplemental experience statements; supervisory KSAO assessment if developed; the specialized supervisory appraisal, if developed; the crediting plan; etc.).
- b. **Requirement** The selection procedure documentation file must be maintained as long as it is used and for at least 2 years after the procedure has been discontinued.
- c. **Guidance** For wage grade jobs, the job elements have, in many instances, been provided. **Requirement** Documentation for the crediting plan development must, however, be maintained. A record of the review of the individual position and the adequacy of Handbook X-118C job elements; documentation related to alterations, deletions, and additions of job elements; the crediting plan, including quality level statements; supplemental qualification statements; supervisory KSAO assessments; etc., are necessary for support of the procedure.

APPENDIX C. INTERCHANGE AGREEMENTS

- **1. PURPOSE.** This appendix outlines changes resulting from [two] interchange agreements between VA and Office of Personnel Management (OPM) negotiated under provisions contained in Executive Orders 9830 and 10577, Civil Service Rule 6.7. Two agreements allow for movement of personnel employed under 38 U.S.C. 7401(1) and 7401(3) in Veterans Health Administration (VHA) and the competitive civil service. [] Employees must have at least 1 year of continuous service in order to be covered by the terms of these agreements.
- **2. INSTRUCTIONS.** Following are implementing instructions regarding program areas affected by the agreements:

a. Coverage

- (1) Appointments under 38 U.S.C. 7401(1) are limited to physicians, dentists, nurses, nurse anesthetists, podiatrists, optometrists, chiropractors, physician assistants and expanded-function dental auxiliaries employed on a full-time basis. Appointments under 38 U.S.C. 7401(3) are limited to those occupations specifically listed under Section 7401(3) or approved for hybrid status by the Assistant Secretary for Human Resources and Administration in accordance with the provisions of part II, chapter 3, section A, paragraph 2 of this handbook. []
- (2) Employees involuntarily separated without cause from qualifying positions (described in subparagraph a(1) above) may be appointed non-competitively within 1 year of the separation period.
- b. Consideration for Conversion to a Competitive Service Appointment. Title 38 and Hybrid Title 38 employees who are eligible for conversion to competitive service positions under VA interchange agreements and are in the area of consideration for posted vacancies shall be allowed to apply. The following procedures will be used:
- (1) If the competitive service position does not provide promotion or placement in a position with promotion potential, qualified excepted service employees covered by the interchange agreements may be selected and converted to the competitive service position without competition. If an increase in pay will result, it is considered a promotion and competition under the appropriate merit promotion plan for competitive service positions will take place as described in the next paragraph.
- (2) If the competitive service position provides promotion or placement in a position with higher promotion potential, qualified excepted service employees covered by the interchange agreements will be rated and ranked along with competitive service employees. Excepted service and competitive service employees will be referred on [the same] certificate. [] (See chapter 3 of this part.)

NOTE: For VHA policy regarding the utilization of title 38 employees (appointment/assignment to non-clinical duties), see appendix III-N.

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APPENDIX E. MERIT PROMOTION PLAN FOR COMPETITIVE POSITIONS CENTRALIZED TO THE SECRETARY

1. SCOPE

- a. This section contains the merit promotion plan for all competitive service positions centralized to the Secretary except for those positions in the Secretary's office below grade GS-15 which are covered by Central Office promotion plans. This section also includes those positions specifically designed to train or develop employees for placement into such positions. There may be instances, when simultaneous consideration for promotion or for assignment to positions with higher known promotion potential of certain excepted service employees (e.g., Schedule A, title 38, etc.) is desirable. When such concurrent consideration occurs, the same rating and ranking criteria will apply to both types of appointees []. (For Senior Executive Service positions, refer to VA Directive and Handbook 5027.)
 - b. The procedures of this plan apply to the following actions:
 - (1) Promotion;
- (2) Reassignment or change-to-lower grade to a position with greater known promotion potential than the current position (except as permitted by reduction-in-force regulations);
- (3) Selection for training which is part of an authorized training program or required before an employee may be considered for a promotion;
- (4) Transfer of an employee from another Federal agency to a higher grade VA position, or to a VA position with higher known promotion potential than his/her current position;
- (5) Reinstatement, including those made from reemployment priority lists, to a permanent or temporary position at a higher grade than the last grade held in a non-temporary position in the competitive service, or to a position with higher known promotion potential than the last non-temporary competitive service position held;
- (6) Selection for details of more than 120 days to a higher grade position or a position with higher known promotion potential (5 CFR 335.103(c)(ii), and chapter 3 of this part);
- (7) Temporary promotion for more than 120 days (all prior service by detail to higher grade and by temporary promotion, whether competitive or noncompetitive, during the preceding 12 months is to be counted toward the 120-day time limit);
- (8) Promotion resulting from a position being upgraded due to the addition of duties and responsibilities; when a career promotion is determined not to be appropriate. (See paragraph 11 of this appendix for a discussion of career promotions under these circumstances.)

9. REFERRAL AND SELECTION PROCEDURES

- a. Following completion of the rating and ranking process, or as vacancies occur, a [] certificate containing the names of the best qualified VA candidates (listed in alphabetical order) will be prepared.
- (1) If transfer and/or reinstatement eligibles and/or certain excepted service employees are being considered for higher grade positions, or for positions with higher known potential, they will be evaluated and ranked along with competing competitive service VA employees to determine the cut-score. After the cut-score has been established, those who rank at or above the cut-score will be referred on [the same certificate].
- (2) If a position is announced at multiple grade levels, separate certificates will be referred for each grade level.
- b. The signed certificates will be forwarded to the nominating official. [(In USA Staffing recruitment actions, referrals are transmitted electronically and final selections are made electronically via the USA Staffing document viewer.)] This official will recommend a selection to the Secretary in accordance with procedures in Central Office Operating Instructions, OI-1, part V, chapter 6. When nominating a candidate who must relocate to accept an assignment, information should be provided regarding cost considerations. Additionally, if the candidate has been in his or her current VA assignment less than 36 months, a justification of the move will be included.
- c. Until selections for positions centralized to the Secretary have been approved by the Secretary, candidates nominated for these positions should not be informed of their nominations, and no personnel action will be taken.
- d. The Secretary has the right to select or non-select from a [] certificate or from any other appropriate source of candidates. This includes the right to non-select all the [] candidates and return the [] certificate unused. Where multiple vacancies or multiple grade levels are involved, this includes the right to select for one or more vacancies at the same or other grade levels (if applicable) and to return the certificates without selecting for remaining vacancies.
- e. The Secretary's final approval will be communicated by the appropriate Administration Head, Assistant Secretary or Other Key Official.
- **10. EFFECTIVE DATES.** Employees will be released to their new assignments within a reasonable length of time.
- a. Normally, the effective date of a position change at the same facility will be the first day of the next pay period after the date of administrative approval. Where unusual circumstances justify a period longer than 2 weeks prior to release, either (1) the employee should be informed in writing over the signature of the official responsible for the delay of the reasons for the delay and the expected release date, or (2) the position change action should be effected and the employee detailed back to the former position.

14. KEEPING EMPLOYEES INFORMED

- a. While movement among the several specific career fields is possible, a typical career path closely follows a particular career field. Career counseling is available to employees and may be sought at any time. (See paragraph 4e of this merit promotion plan.)
- b. Copies of this plan will be posted at each VA facility. In addition, a copy of this plan will be made available on an employee's request.
- c. Each candidate who individually applies to indicate interest in and availability for a particular position will be subsequently notified of the action taken by the Central Office Human Resources Service.
- d. Selections made under this plan will be publicized at least quarterly by the Central Office Human Resources Service.
- e. Employees who apply for and inquire about the results of a specific promotion action will be given the following information:
 - (1) By the Central Office Human Resources Service:
 - (a) Whether they met the minimum qualification requirements;
 - (b) Whether they were in the group from which selection was made;
 - (c) Who was selected; and
- (2) By the appropriate Administration Head, Assistant Secretary or Other Key Official or their designee, upon request, in what areas, if any, they should improve to increase their chances for future promotion.
- f. Upon request, employees will be shown any record of production, or any supervisory appraisal of past performance which has been used in considering them for promotion. An employee is not entitled to see the records of another employee unless they are the selecting official, a member of the promotion panel, or otherwise performing official duties which involve reviewing records of that specific promotion file, or he/she has the written consent of the subject of the record.

15. GRIEVANCES / DISCRIMINATION / COMPLAINTS

a. Failure to be selected for promotion from a properly constructed [] certificate (nonselection from a group of properly certified candidates) is not a basis for formal grievance, nor is dissatisfaction concerning the number of positions to be filled, or the grade level at which positions are advertised or filled. Grievances will be processed under the provisions of the VA grievance procedure contained in VA Handbook 5021, Employee/Management Relations.